

Introduced by Senator Battin

January 15, 2002

An act to amend Section 422 of the Penal Code, relating to terrorist threats.

LEGISLATIVE COUNSEL'S DIGEST

SB 1267, as introduced, Battin. Terrorist threats.

Existing law provides that it is an offense for any person to willfully threaten to commit a crime that will result in death or great bodily injury to another person, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying out the threat, and that on its face and under the circumstances, conveys to the person threatened a gravity of purpose and prospect of immediate execution, so that the person threatened is reasonably in sustained fear of his or her own safety or the safety of his or her immediate family, as defined. The offense is punishable as a misdemeanor or a felony.

This bill would limit the application of these provisions to persons affiliated with a federally recognized terrorist organization.

This bill would also recast those provisions so that the offense is not limited to the situation where the threat is conveyed to the person threatened, as long as the threat would convey to the person to whom the threat is communicated a gravity of purpose and immediate prospect of execution of the threatened crime. This offense would be punishable as a misdemeanor or a felony.

By changing the definition of an existing crime, this bill would impose a state-mandated local program.

This bill would also provide that where the threat, as defined, would convey to the person to whom the threat is communicated, a gravity of purpose and immediate prospect of execution of the threatened crime,



and the person making the threat has the means or capability to carry out the threat, as defined, the offense is a felony punishable by imprisonment in the state prison for 2, 3, or 4 years.

By creating a new crime, this bill would impose a state-mandated local program.

This bill would also provide that a person committing either of the above-described offenses is liable to local entities, as defined, for the costs in personnel, equipment, and materials incurred to respond to the threat.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 422 of the Penal Code is amended to
2 read:

3 422. (a) Any person *or persons affiliated with any federally*
4 *recognized terrorist organization* who willfully threatens to
5 commit a crime ~~which will~~ *that would* result in death or great
6 bodily injury to another person, with the specific intent that the
7 statement, made verbally, in writing, or by means of an electronic
8 communication device, is to be taken as a threat, even if there is
9 no intent of actually carrying it out, *and* which, on its face and
10 under the circumstances in which it is made, is so unequivocal,
11 unconditional, immediate, and specific as to convey to the person
12 ~~threatened~~ *to whom the threat is communicated*, a gravity of
13 purpose and an immediate prospect of execution of the threat, and
14 thereby causes that person reasonably to be in ~~sustained fear for his~~
15 ~~or her own safety or for his or her immediate family's safety~~ *fear*
16 *for the safety of the person or persons who would be the victims of*
17 *the threatened crime*, shall be punished by imprisonment in ~~the a~~
18 county jail not to exceed one year, or by imprisonment in the state
19 prison.

20 ~~For the~~



(b) Any person who or persons affiliated with any federally recognized terrorist organization willfully threatens to commit a crime that would result in death or great bodily injury to another person, and who has the means or capability to carry out the threatened crime, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat and which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person to whom the threat is communicated, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in fear for the safety of the person or persons who would be the victims of the threatened crime, shall be punished by imprisonment in the state prison for two, three, or four years.

(c) For purposes of this section, ~~“immediate family” means any spouse, whether by marriage or not, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household~~ the phrase “has the means or capability to carry out the threatened crime” includes, but is not limited to, possessing, or controlling, or having access to, a weapon, explosive, toxin, poison, biological agent, chemical agent, bomb, incendiary or flammable device or substance, or other device, mechanism, instrumentality, or substance, or the parts or components thereof, that could cause death or great bodily injury if used to carry out the threatened crime.

~~“Electronic~~

(d) For purposes of this section, “electronic communication device” includes, but is not limited to, telephones, cellular telephones, computers, video recorders, fax machines, or pagers. “Electronic communication” has the same meaning as the term defined in ~~Subsection 12~~ subsection (12) of Section 2510 of Title 18 of the United States Code.

(e) Any person or persons affiliated with any federally recognized terrorist organization who violate the provisions of subdivision (a) or (b) shall be liable for those costs incurred by local authorities in response to the threat. Those costs shall include, but not be limited to, the costs for personnel, equipment,

1 *and materials involved in the response to the threat and incurred*
2 *by any local department, agency, or entity supplying: police,*
3 *sheriff, other local law enforcement personnel, or other peace*
4 *officers; fire department personnel; disaster response personnel;*
5 *emergency medical personnel; hazardous materials personnel; or*
6 *any other emergency response personnel.*

7 SEC. 2. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

